FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 713 OF 2006

Office notes, office Memoranda of Coram, appearances, Court's orders or directions & Registrar's orders.	:	Court's or Judge's Orders

Mr. Naveen Chomal for petitioner

Ms. M.H. Mhatre,APP

CORAM: SMT. RANJANA DESAI, J.
DATED:-19/12/2006

P.C.:-

In this petition, the petitioner has prayed that respondents be directed to record the FIR afresh under sections 120-B, 323, 355, 406, 420, 463, 465, 466, 467, 468, 471, 474, 477, 498A, 504, 506(II), 507, 511 etc. of the Indian Penal Code ("IPC" for short) and take action against the erring accused persons i.e. her husband Mukul, Father-in-law Munish, mother-in-law Smt. Radha, brothers-in-law Sharad and Shailesh and uncle Kanhaiyalal and his wife Smt. Geeta, under the provisions of law.

I have heard Mr. Chomal learned advocate appearing for the petitioner. He submitted that it is inter alia the case of the petitioner that her brother-in-law Shailesh Gupta, who is staying at Bangalore informed her on 6/5/01 that her husband had died in Phillipines. This was totally a false statement. In fact her husband sent a divorce notice to her on 19/6/01 and the husband is in fact alive. On account of harassment to which the petitioner was subjected, the petitioner filed a complaint on 1/4/03 which was investigated and C.R. No.104/03 came to be registered under Section 498-A read with 34 of IPC at Borivali Police Station against her husband, her parents-in-law and her two brothers-in-law. Mr. Chomal pointed out that in her complaint dated 1//4/03 the petitioner has clearly stated that it is her brother-in-law Shailesh who informed her on phone on 6/5/01 that her husband was dead.

It is further the case of the petitioner that certain documents such as death certificate issued at Phillipines were sent to her stating that her husband was dead. The said documents were fabricated by her brother-in-law Shailesh at Bangalore. However, the police did not carryout further investigation to find out whether the documents are fabricated by Shailesh. She, therefore, sent a complaint to the Commissioner of police, Mumbai dated 13/12/05. It is the grievance of the petitioner that in spite of her sending a complaint to the Commissioner of Police,Mumbai no action has been taken by the police and the police have failed to collect necessary evidence as regards alleged forgery and fabrication. Mr. Chomal contended that appropriate directions be given to the police.

I have also heard the learned APP. She drew my attention to the affidavit of Mr. Ramdas G. More, Police Inspector, who was the investigating officer of this case.

The learned APP contended that in the first complaint the petitioner did not state that the documents were fabricated by her brother-in-law. She has come out with this case later on. The learned APP submitted that proper investigation has been done. Necessary offences have been added. She submitted that no interference is necessary with the impugned proceedings.

Though the petitioner has prayed that Sections 355, 465, 468, 471, 474, 498A, 504, 507 may be added, the affidavit of Mr. More indicates that since the petitioner had forwarded letter to the police stating that certain other sections of the I.P.C. should be added to the instant C.R. on 25/4/03 opinion was sought from the Chief Prosecutor. After receipt of the said opinion, offences under Sections 355,465, 468,471,474,504,367 read with 34 of the I.P.C. have been added to C.R. no. 1104/03 and after completing investigation charge-sheet

has been filed on 18/11/03.

It is unfortunate that without checking this fact such a wide prayer should be made in this petition. The prayer ought to have been restricted to the Sections which the petitioner wants to be added and which have not been added.

The learned APP on instructions from Ramdas More presently attached to Protection Branch - II, Mumbai states that the police will make appropriate application before the learned Magistrate for further investigation under Section 173(8) and appropriate investigation in the right direction will be made if permission is granted.

In view of this statement nothing survives in this petition. Petition is disposed of.

JUDGE.